

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

**IN THE MATTER OF:**

<b>MOORPARK SCHOOL DISTRICT</b>	)	<b>Complaint No. R4-2004-0019</b>
<b>5297 MAUREEN LANE</b>	)	<b>For</b>
<b>MOORPARK , CA 93021</b>	)	<b>Administrative Civil Liability</b>

**MOORPARK UNIFIED SCHOOL DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. Moorpark Unified School District (MUSD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), may impose liability under § 13385 and § 13399.33(c) of the California Water Code (CWC).
2. A hearing concerning this Complaint will be held before the Regional Board or Regional Board Hearing Panel (Hearing Panel) within ninety days after service of this Complaint on MUSD will be notified at least ten days in advance of the date, time and place of the hearing. MUSD representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. The Regional Board will consider whether to affirm, reject or modify the proposed administrative civil liability or to refer the matter to the Attorney General for recovery of judicial civil liability.
4. In the event that MUSD fails to comply with the requirements of this Complaint, the Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement.
5. MUSD located at 5297 Maureen Lane, Moorpark, California is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No.97-03-DWQ, and NPDES No. CAS000001 (General Permit). This facility was enrolled in the General Permit on March 11, 2003. The facility's WDID Number is 4 56 S 017876 and is identified as an automotive repair including car washing operation (SIC 7542, 7538). The General Permit (Section B, No. 14) requires MUSD to submit an annual report by July 1<sup>st</sup> of each year.
6. Pursuant to CWC § 13399.31, a Notice of Non-Compliance (NNC) letter was mailed to MUSD on July 24, 2003 for failure to submit the 2002/03 storm water annual report. A Notice of Violation (NOV) letter was then mailed to MUSD on August 29, 2003 for failing

**February 17, 2004**

to submit the 2002/03 stormwater annual report within 30 days of mailing of the NNC. The NOV letter warned MUSD of the mandatory fines that are required to be assessed for failure to submit the stormwater annual report. MUSD failed to respond to the NNC and NOV and to date, the stormwater annual report for 2002/03 has not been received. By not submitting the required stormwater annual report, MUSD violated provisions of the General Permit, the Federal Clean Water Act and the CWC.

7. CWC § 13385(a)(2) provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. CWC § 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Based on non-submittal of the 2002/03 annual report, MUSD is alleged to have violated the General Permit for 93 days (July 1, 2003 to October 3, 2003) and is civilly liable for a total of 93 days of violation at a maximum of \$10,000 for each day in which the violation occurs. The annual report was received on October 3, 2003, however it was incomplete.
9. CWC § 13399.33(c) provides that the Regional Board shall impose a minimum penalty of not less than \$1,000 on any person who fails to submit an annual report in accordance with CWC§13399.31.
10. Pursuant to CWC § 13399.33(a)(2), the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed:
  - a. The nature, circumstances, extent, and gravity of the violation:

MUSD has been given sufficient notice to submit the annual report. MUSD has not responded to the notice and has not submitted the annual report for 93 days. Annual reports provide compliance information for permitted facilities, and they are essential for Regional Board staff in determining whether an operator is in compliance with the General Permit. Therefore, no reduction in the civil liability is warranted.
  - b. Violator's ability to pay:

The Regional Board lacks sufficient information to determine MUSD's ability to pay. The Regional Board feels that the penalty is correctly assessed; therefore, no reduction in the civil liability is warranted.
  - c. Prior history of violations:

On July 24, 2003 the Regional Board staff mailed an NNC to MUSD for not submitting the 2002/03 annual report. On August 29, 2003 the Regional Board mailed an NOV to MUSD for not submitting the 2002/03 annual report. Since August 2003 Regional Board staff has called the MUSD representative numerous times without any success.
  - d. Degree of culpability:

MUSD is required under the General Permit (Section B, No. 14) to submit an annual report by July 1<sup>st</sup> every year. The Regional Board sent MUSD an NNC and an NOV when MUSD's 2002/03 stormwater annual report was not received.

- e. Savings resulting from the violation:  
Regional Board staff have examined the cost savings from non-submittal of a completed stormwater annual report and determined that it is at least \$500.
  - f. Other matters justice may require:  
Regional Board staff is unaware of other matters which would have impacted on the decision on the amount of civil liability to be assessed on this matter.
11. After consideration of those factors, the Executive Officer proposes civil liability be imposed on MUSD in the amount of \$3,750 (of this amount, \$1,000 represents the minimum mandatory penalty of CWC § 13399.33(c) for failing to submit a stormwater annual report).
12. CWC § 13399.33(d) provides that the Regional Board may recover from MUSD the costs incurred by the Regional Board in this matter. The Regional Board charges a rate of \$70 per hour for staff cost recovery. As of February 17, 2004, staff spent 25 hours investigating MUSD's failure to comply with the annual report requirement of the General Permit. Staff costs to date incurred by the Regional Board total \$1,750.

**PROPOSED CIVIL LIABILITY**

<b>PENALTY CATEGORY</b>	<b>CALCULATION</b>	<b>TOTAL</b>
Non-compliance with Order No. 97-03 DWQ by failing to submit the 2002/03 annual report.	CWC § 13399.33: Minimum penalty of \$1,000 for failing to submit a stormwater annual report.	\$ 1,000
Recovery of Staff Costs	(25 Hours)(\$70/Hour)	\$1,750
Avoided Cost	\$500	\$500
<b>Recommended ACL</b>		<b>\$3,250</b>

13. MUSD may waive its right to a hearing. Should MUSD choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4<sup>th</sup> Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on March 22, 2004. If the hearing is waived, in order to satisfy the civil liability, a check in the amount of \$3,250 (payable to the State Water Resources Control Board-Storm Water Account) shall accompany the signed waiver.
14. Regulations of the US Environmental Protection Agency require public notification of any proposal settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposal settlement of this Complaint.

ACL No. R4-2004-0019

If MUSD has any questions, please contact Ejigu Solomon at (213) 620-2237 or Ann Zaskodna at (213) 620-2120.

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Date

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Dennis A. Dickerson  
Executive Officer

## **WAIVER OF HEARING**

By signing below and attaching a check for the amount of civil liability proposed in the Administrative Civil Liability Complaint No. R4-2004-0019, MUSD waives the right to a hearing before the Regional Board. MUSD understands that it is forgoing its right to argue against the allegations made by the Executive Officer in this Complaint, and against imposition of, and the amount of, civil liability imposed. Furthermore, MUSD understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment will be due thirty days after the date of adoption.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_  
Moorpark Unified School District

Date: \_\_\_\_\_